

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

JST

Mailed: November 6, 2002

Cancellation No. 92032513

Steven R. Hyken

v.

AST Sportswear, Inc.

Jyll S. Taylor, Attorney:

On August 8, 2002, the Board ordered petitioner to respond within thirty days thereof to respondent's third set of discovery requests.

On August 29, 2002, petitioner filed a motion to suspend the proceeding.¹ However, petitioner did not indicate that a copy thereof was served on counsel for respondent as required by Trademark Rule 2.119.² Accordingly, no consideration will be given to the motion until a copy thereof is served on counsel for petitioner and proof of such service is filed with the Board. Petitioner is therefore allowed until thirty days from the mailing date

¹ Consequently, respondent's motion (filed September 11, 2002) is premature and will be given no further consideration.

² The Board further notes that petitioner did not include the reason for the requested extension in its motion. See TBMP § 502.02.

of this order to effect service, failing which no further consideration will be give to the motion.

Additionally, if petitioner intends to represent himself in this proceeding, he should note the following. The Trademark Rules of Practice, other federal regulations governing practice before the Patent and Trademark Office, and many of the Federal Rules of Civil Procedure govern the conduct of this opposition proceeding. Patent and Trademark Rule 10.14 permits any person to represent itself in a Board proceeding, though it is generally advisable for a person unfamiliar with the above-referenced rules to secure the services of an attorney familiar with such matters.

If respondent does not retain counsel, then respondent will have to familiarize himself with the rules governing this proceeding. Strict compliance with the Trademark Rules and all other applicable rules is expected of all parties, even those representing themselves.

The Trademark Rules are codified in part two of Title 37 of the Code of Federal Regulations (also referred to as the CFR). There are other rules in part one of Title 37, relevant to filing of papers, meeting due dates, etc., that are also applicable to this case. The CFR and the Federal Rules of Civil Procedure, are likely to be found at most law libraries, and may be available at some public libraries. If respondent wishes to obtain a copy of Title 37 of the

CFR, it may be ordered for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.³

One rule that respondent must pay particular attention to is Trademark Rule 2.119. That rule requires that a party filing any paper with the Board during the course of a proceeding must serve a copy on its adversary, unless the adversary is represented by counsel, in which case, the copy must be served on the adversary's counsel. With the paper that is filed with the Board, the party filing the paper must include "proof of service" of the copy. "Proof of service" usually consists of a signed, dated statement attesting to the following matters: (1) the nature of the paper being served, (2) the method of service (e.g., first class mail), (3) the person being served and the address used to effect service, and (4) the date of service.

Also, respondent should note that any paper it is required to file herein must be received by the Patent and Trademark Office by the due date, unless one of the filing procedures set forth in Patent and Trademark Rules 1.8 and 1.10 is utilized. These rules are in part one of Title 37

³ Additional information may be found in the Trademark Trial and Appeal Board Manual of Procedure (TBMP) (Stock No. 903-022-00000-1). The TBMP is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (Telephone (202) 512-1800). The TBMP is also available on the World Wide Web at <http://www.uspto.gov>.

of the previously-discussed Code of Federal Regulations.

As noted above, respondent has until 30 days from the mailing date of this order to serve petitioner's counsel with its motion to suspend and to file proof of such service with the Board. Petitioner's counsel's name and address is set forth at the end of this decision.

Proceedings herein are otherwise suspended.

Petitioner's Counsel:

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